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RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY RE: FINDING UNDER MGL CHAPTER 91 SECTION 18, UNDER 310 CMR 9.13 (5), AND UNDER BOSTON ZONING CODE SECTION 42F-5, RELATIVE TO THE REDEVELOPMENT OF BUILDING 104 LOCATED IN THE CHARLESTOWN NAVY YARD, CHARLESTOWN, CITY OF BOSTON, CHARLESTOWN URBAN RENEWAL AREA, MASS. PROJECT R-55.

WHEREAS Building 104 located on First Avenue within the Charlestown Navy Yard is an historic building constructed at the beginning of this century, located on a site consisting partially of filed Commonwealth Tidelands, as that term is defined in 310 CMR; and

WHEREAS Section 18 of MGL Chapter 91 provides that the planning board of the city shall make a recommendation to the Massachusetts Department of Environmental Protection whether a project serves a proper public purpose and would not be detrimental to the public's rights in filled Commonwealth Tidelands; and

WHEREAS 310 CMR Section 9.13 (5) requires the City of Boston through it's planning board, the Boston Redevelopment Authority, to make said findings and recommendations pursuant to Section 18 of MGL Chapter 91 and it is the purpose of this document to make such findings and recommendations; and

WHEREAS Subsection 42F-5 of the Boston Zoning Code establishes criteria and standards to be used by the Boston Redevelopment Authority in making said findings and recommendations to Department of Environmental Protection; and

WHEREAS Article 42F of the Boston Zoning Code has been approved as part of the City of Boston's Municipal Harbor Plan pursuant to 301 C.M.R. 23.00 by the Secretary of the Executive Office of Environmental Affairs in a decision dated May 22, 1991, this document accordingly applies criteria and standards set forth in Section 42F-5 for making a determination pursuant to Section 18 of MGL Chapter 91; and

WHEREAS the Charlestown Navy Yard Master Plan and the Charlestown Urban Renewal Plan, Mass Project R-55, contemplated the rehabilitation of Building 104 for the creation of affordable housing units and the proposed redevelopment meets this objective; and

WHEREAS it is proposed that Building 104 be rehabilitated for use as 46 apartments to be rented to elderly tenants having incomes which are less than 60% of median.

NOW THEREFORE, BE IT RESOLVED BY THE BOSTON REDEVELOPMENT AUTHORITY:

That of the eight subsections of Section 42F-5, only Subsections 1, 2, and 4 are applicable for determining that Building 104 project complies with the relevant requirements and said project is found to hereby conform to these Sections as follows:

Section 1 - Determination of Proper Public Purpose

Building 104 reasonably and appropriately preserves and enhances the public's right in Tidelands. Visual access to the water is available along Thirteenth Street Extension, which is adjacent to Building 104, and from many other points along the Harborwalk which is also nearby. The rights of fishing, fowling and navigation, as well as access to waterborne transportation, are extremely limited as the project site does not contain flowed tidelands and is 240 feet from mean high water by the shortest measurement. However, public access has been provided along the project perimeter in the form of an easement for a public walkway linking to the pedestrian access network leading to the Harborwalk.

Section 2 - Public Access to the Waterfront and Open Space

Building 104 complies with the requirement for public access to the waterfront through the public walkway easement to be provided connecting the rear of the building to the Thirteenth Street Extension, which has a cul-de-sac fronting on the water with direct public access 24 hours a day to the Harborwalk.

The nature and existing footprint of the Building 104 site and the 100% affordable housing component makes it unfeasible for public open space to be provided on the site, either in the building interior or the building exterior.

While 310 CMR 9.51(3)(d) provides that at least one square foot of the project site at ground level shall be reserved as open space for every square foot of tideland area within the combined footprint of buildings containing nonwater-dependent uses, it also authorizes waiver of this requirement [310 CMR 9.34(2)(b)(1)] by the Department of Environment Protection if the project conforms to a municipal harbor plan. This waiver was authorized in Secretary Tierney's approval of the Boston Municipal Harbor Plan, dated May 22, 1991, which referenced 310 CMR 9.51(3)(d) as follows:

> "Open Space: DEP shall grant such waiver if and only if a project included otherwise provides on a reasonably concurrent basis for sufficient public open space to ensure that the total amount of such open space as a percentage of the total area of the subdistrict (exclusive of the Historic Monument Area "HMA") does not fall below 50 percent. The City shall keep a running tally of the open space percentage, and every Section 18 recommendation on a Waterways license application shall include certification, based on such a tally, that the required minimum percentage will be maintained upon completion of the proposed project."

Upon completion, the Building 104 project achieves this requirement as the total open space within the Charlestown Navy Yard (exclusive of the HMA) will be greater than the minimum 50% required.

Pursuant to the definition of open space Section 42F-5, there will be 1,968,355 square feet of publicly accessible open space at the completion of this project. Total lot area of the Charlestown Navy Yard, (exclusive of the HMA), is approximately 2,884,000 square feet. Accordingly, the percentage of open space will be 57%. These substantial open spaces areas provided for in the Charlestown Navy Yard Subdistrict (excluding the HMA) will be maintained pursuant to agreements between the Boston Redevelopment Authority and parties other than the proposed developer of Building 104.

Section 4 - Creation of Housing on Land Owned by Public Agency

Rehabilitation of Building 104 contemplates 100% affordability of the 46 elderly dwelling units. Consequently, this 100% affordability goes beyond meeting the requirements of Section 4 which provides that at least 25% of the dwelling units proposed be affordable. The rehabilitation of Building 104 will therefore provide a substantial and extraordinary contribution to the supply of affordable housing along the waterfront.

Summary - Tidelands Use

Therefore, the Authority finds that the proposed rehabilitation of Building 104 serves a proper public purpose and will not be detrimental to the public's rights in Tidelands; and that the project conforms to each of the relevant objectives of Section 42F-5 of the Boston Zoning Code and the Charlestown Navy Yard Master Plan.

Accordingly, the Boston Redevelopment Authority hereby finds that the Building 104 development proposal to be consistent with the applicable requirements for a Chapter 91 waterways license and recommends pursuant to MGL Chapter 91 Section 18 and 310 CMR 9.13(5) that a Chapter 91 Waterways license be granted by DEP for the Building 104 project; and the Authority further finds that the project as described in the plans and specifications submitted for the proposed rehabilitation of Building 104 complies with all applicable provisions of the Boston Zoning Code (including and in addition to Section 42F-5).

MEMORANDUM **OCTOBER 31, 1991**

TO: **BOSTON REDEVELOPMENT AUTHORITY AND STEPHEN COYLE, DIRECTOR**

FROM: **PAUL BARRETT, ASSISTANT DIRECTOR ROBERT RUSH, DEPUTY DIRECTOR HARBOR PLANNING AND DEVELOPMENT**

SUBJECT: **BRICKLAYERS AND LABORERS CHARLESTOWN NON-PROFIT DEVELOPMENT CORPORATION REHABILITATION OF BUILDING 104, CHARLESTOWN NAVY YARD**

EXECUTIVE SUMMARY: **THE DEVELOPER REQUESTS THE BOSTON REDEVELOPMENT AUTHORITY'S DETERMINATION PURSUANT TO M.G.L. CHAPTER 91 THAT THE REDEVELOPMENT OF BUILDING 104 IN THE CHARLESTOWN NAVY YARD SERVES A PROPER PUBLIC PURPOSE AND IS NOT DETRIMENTAL TO THE PUBLIC'S RIGHTS IN COMMONWEALTH TIDELANDS**

Building 104 is located on First Avenue in the Charlestown Navy Yard. It is an historic building constructed in 1901 as the Ship Repair Shop for the Navy Yard. On July 12, 1990 the Boston Redevelopment Authority Board granted Final Designation to the Bricklayers and Laborers Charlestown Non-Profit Development Corporation (BLCNPDC) to redevelop the 60,000 square foot three story brick structure for affordable residential housing. BLCNPDC plans to rehabilitate Building 104 into 46 units of affordable elderly housing for residents with incomes less than 60% of median. The project would also include 30 indoor parking spaces, a portion of which will be rented to residents, with the balance available at market rates to other area car owners, the proceeds then allocated to help subsidize the affordability of the project.

Section 18 of M.G.L. Chapter 91 provides that because Building 104 is located on a site consisting partially of filled Commonwealth Tidelands, as that term is defined in 310 CMR, the Boston Redevelopment Authority acting as the planning board for the City of Boston shall make a recommendation to the Massachusetts Department of Environmental Protection (DEP) as to whether the project serves a proper public purpose and would not be detrimental to the public's rights in filled Commonwealth Tidelands.

Subsection 42F-5 of the Boston Zoning Code establishes criteria and standards to be used by the Authority in making such findings. Only these subsections of 42F-5 are applicable to the redevelopment of Building 104: